

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service)
Commission, on its own motion, to investigate)
issues related to the current state of landline)
and enhanced wireless 911 service and the)
means to ensure statewide access to landline)
911 and enhanced wireless 911 service.)

Application No. 911-014/PI-99

COMMENTS OF NEXTEL PARTNERS

I. INTRODUCTION

NPCR, Inc., d/b/a Nextel Partners (“Nextel Partners”), submits these comments pursuant to the *Order Opening Docket* issued by the Nebraska Public Service Commission (“Commission”) on June 28, 2005.¹ Nextel Partners holds Federal Communications Commission (“FCC”) licenses to provide commercial mobile radio services (“CMRS”) in the State of Nebraska, and provides 911 service throughout its Nebraska service area.

In the *Opening Order*, the Commission sought comment on issues related to 911 service in Nebraska. The Commission’s goal in this docket appears to be to gather information and suggestions so that it and the Nebraska Legislature² may develop policies to accelerate the deployment of landline and wireless 911 and enhanced 911 (“E911”) service throughout Nebraska.

Nextel Partners believes the Commission’s goal is an important one – 911 service is of critical importance to public safety. Furthermore, as a provider of wireless 911 service in many states in addition to Nebraska, Nextel Partners has significant experience with issues relating to

¹ *In the Matter of the Nebraska Public Service Commission, on its own motion, to investigate issues related to the current state of landline and enhanced wireless 911 service and the means to ensure statewide access to landline 911 and enhanced wireless 911 service*, Application No. 911-014/PI-99, *Order Opening Docket* (rel. June 28, 2005) (“*Opening Order*”).

² The *Opening Order* indicates that this Docket is opened in conjunction with Nebraska Legislative Resolution 143, which directs the Legislature’s Transportation and Telecommunications Committee to conduct a study, specifically including input from the Commission, regarding landline 911 and wireless enhanced 911.

the implementation of wireless Phase I and Phase II E911 service. Accordingly, Nextel Partners offers its comments and suggestions for the Commission's consideration.

Nextel Partners strongly recommends that the Commission ensure that sufficient funding is available not only for the anticipated costs of Phase II E911, but for the ongoing costs of maintaining Phase I E911 service. Nextel Partners' suggestions on how Nebraska's administrative procedures for reimbursement of E911-related costs may be streamlined or reconfigured are based primarily on its first-hand experiences with E911 reimbursement in Nebraska and in other states. Finally, Nextel Partners does not necessarily oppose an increase in 911-related surcharges, but the intended use of the increased funding must be clearly identified and the surcharges should be imposed equitably on consumers of all types of carriers.

II. BACKGROUND

A. Wireless Carriers' 911 Requirements and Technology

Wireless carriers are generally required to provide basic 911 service – the ability for a consumer to reach a Public Safety Answering Point (“PSAP”) by dialing “911” – wherever they operate.³ Before a cell site can be activated, the site must be able to deliver 911 calls to a PSAP. Nextel Partners has provided basic 911 service in Nebraska as long as it has been operational there.

In addition, the FCC has set deadlines by which wireless carriers must be prepared to offer Enhanced 911 (“E911”) services. E911 is divided into Phase I E911 and Phase II E911. With wireless Phase I E911, the consumer's 911 call generates automatic numbering information (“ANI”) and automatic location information (“ALI”) which is provided to the PSAP.⁴ In other words, the PSAP automatically is provided with the wireless caller's telephone number and the

³ 47 C.F.R. § 20.18(b).

⁴ See 47 C.F.R. § 20.18(d).

location and direction of the cell tower sector transmitting the call. The wireless carrier must have the ability to obtain and transmit this data, facilities must be established to transmit the data, and the PSAP must be able to receive and utilize the data. In Phase II E911, the carrier must provide the PSAP with the caller's location within certain accuracy guidelines set forth by the FCC and the PSAP must be able to receive and utilize this information.⁵

There are two technological approaches a wireless carrier may use to provide Phase II E911: a handset-based solution and a network-based solution. In a handset-based solution, the consumer's wireless handset has Global Positioning System ("GPS") capability. When a 911 call is made, the handset communicates the caller's latitude and longitude to the carrier, which transmits this information to the PSAP. In a network-based solution, the consumer's latitude and longitude is calculated by measuring the caller's distance from three nearby cell towers – a process referred to as "triangulation."

Nextel Partners uses a handset-based solution to Phase II E911 – all of the handsets it currently makes available to consumers have "Assisted-GPS" capabilities that would allow accurate Phase II E911 information to be transmitted to a PSAP. The addition of the "assisted" capability allows Nextel Partners to transmit the data to the PSAP more accurately and rapidly. In addition, Nextel Partners has undertaken efforts to replace older handsets owned by consumers with Phase II E911-capable handsets and to otherwise maximize the number of Phase II E911-capable handsets used by its subscribers.

The FCC has set specific timelines by which wireless carriers must ensure that they are technologically ready to provide Phase I and Phase II E911.⁶ However, the actual provision of E911 service is dependent on PSAPs having the equipment in place to receive the ALI and ANI

⁵ 47 C.F.R. § 20.18(e).

⁶ See generally 47 C.F.R. § 20.18.

and latitude and longitude. Accordingly, the FCC's rules recognize that a wireless carrier need only ensure that Phase I or Phase II E911 capabilities are in place in a given area after certain conditions are met: the PSAP must request that Phase I or Phase II E911 be implemented, the PSAP must be capable of receiving and utilizing the E911 data, and a mechanism for recovering the PSAP's E911 costs must be in place.⁷

B. Nextel Partners' Provision of 911 Service in Nebraska

Nextel Partners has been providing 911 service in Nebraska since it first began providing service there in December 1999. Nextel Partners takes its obligation to provide 911 service very seriously, in recognition of the critical importance of 911 service to public safety. In fact, as a provider of wireless service to numerous police departments, fire departments, and other first responders in Nebraska, as well as to many other local, state, and federal government offices, Nextel Partners takes an especially strong interest in 911 issues.

Consistent with federal law imposing timelines for implementation of E911 capability and with the Commission's 911 procedures, Nextel Partners currently offers Phase I in a number of Nebraska counties and stands ready to deploy Phase I E911 service throughout its Nebraska service areas. Nextel Partners is prepared to timely provide Phase II E911 in Nebraska upon receipt of a valid request from a PSAP.

C. Nebraska's 911 Funding Systems and Deployment Status

A wireless carrier operating in Nebraska must collect a surcharge of \$.50 per line from each of its Nebraska customers.⁸ The surcharges are remitted to Nebraska's Enhanced Wireless 911 Fund (the "Fund").⁹ A PSAP or wireless carrier incurring costs related to the

⁷ 47 C.F.R. § 20.18(j).

⁸ Neb. Rev. Stat. § 86-457.

⁹ Neb. Rev. Stat. § 86-463.

implementation of E911 service may apply for reimbursement from the Fund for these costs.¹⁰ The eligibility criteria and standards for E911-related reimbursements from the Fund are established by the Commission in consultation with the Enhanced 911 Wireless Advisory Board (“Advisory Board”).¹¹ The Commission reviews applications for reimbursements from the Fund and decides whether to grant the reimbursements.¹² The Advisory Board and Commission have identified specific categories of costs incurred by wireless carriers for which reimbursement is allowed and have set forth detailed procedures for seeking such reimbursement.¹³

Funding of landline 911 and E911 costs is handled in a somewhat different manner. Individual cities and counties are permitted to impose a surcharge, in an amount not to exceed \$1.00, on each line served by a local exchange carrier in that area.¹⁴ These surcharges must be used by the city or county to pay for costs related to 911 and E911 service.¹⁵

The Legislature, Commission, and Advisory Board have taken active and diligent roles in working toward the implementation and expansion of 911 and E911 service throughout Nebraska. Unfortunately, Nebraska nevertheless lags behind other states in the implementation of wireless E911 service. According to the Commission, as of June 6, 2005, at least 36 of Nebraska’s 93 counties have not yet completed implementation of Phase I E911, and none of its counties have implemented Phase II E911.¹⁶

¹⁰ Neb. Rev. Stat. § 86-466(1).

¹¹ Neb. Rev. Stat. § 86-465.

¹² Neb. Rev. Stat. § 86-466(1).

¹³ *In the Matter of the Commission, on its own motion, seeking to establish guidelines for the administration of the Enhanced Wireless 911 Fund*, Application No. 911-001/PI-52, *Order Adopting Guidelines*, Progression Order No. 5 (rel. July 16, 2002) (“*Guidelines Order*”).

¹⁴ Neb. Rev. Stat. § 86-435.

¹⁵ Neb. Rev. Stat. § 86-439.

¹⁶ Status of E911, available at http://www.psc.state.ne.us/home/NPSC/e911/e911_status_map.pdf (last visited Aug. 7, 2005).

One reason for the lag in implementation of E911 in Nebraska appears to be financial. Many of Nebraska's counties are quite rural and sparsely populated, so the county governments and other municipal entities that operate PSAPs may have limited budgets available for meeting E911 costs. A bill (LB 458) was introduced in Nebraska's 2005 Legislative Session to make more money available for investment in E911 by allowing the wireless surcharge to be increased from \$.50 to \$1.50. Although LB 458 did not pass, it seems likely that a similar proposal may be considered again in the near future. It is apparent that the Commission expects additional funding to be needed to pay for costs associated with Phase II E911.¹⁷ This docket presents an opportunity for the Commission to consider the policy implications of a change in the wireless surcharge.

III. THE COMMISSION SHOULD ENSURE THAT E911 COSTS ARE FULLY FUNDED

It is clear that the Commission and Legislature are concerned about funding for E911-related costs. Indeed, the *Opening Order* indicates that one of the Commission's goals in this Docket is to investigate issues related to "the means" to ensure statewide 911 access. Nextel Partners shares the Commission's and Legislature's concern, and believes that Phase I and Phase II E911 costs should be fully funded.¹⁸

¹⁷ *In the Matter of the Commission, on its own motion, to establishing [sic] Phase II enhanced wireless 911 service implementation*, Docket No. 911-011/PI-79, *Order Regarding Phase II Enhanced Wireless 911 Service Implementation*, p. 1 (rel. Mar. 30, 2004) ("In anticipation of the costs and data development associated with Phase II of enhanced wireless 911 service, it is necessary to establish a process by which implementation of Phase II can be handled in an efficient and cost effective manner") (emphasis added).

¹⁸ Nextel Partners notes that the *Opening Order* asks for comment on "availability of federal funding...for projects in Nebraska." One source of federal funding for investment in 911 service is universal service support available to eligible telecommunications carriers ("ETCs") – access to emergency services, which generally includes provision of 911 and E911 service, is one of the supported services required for a carrier to be designated as an ETC. 47 C.F.R. § 54.101(a)(5). Nextel Partners sought designation by the Commission as an ETC in 2003. To date, the Commission has only designated one wireless carrier as an ETC. See *In the Matter of the application of GCC License Corporation seeking designation as an eligible telecommunications carrier (ETC) that may receive universal service support*, Application No. C-1889, *Order Granting ETC Status and Issuing Findings* (rel. Nov. 21, 2000); *aff'd sub nom. In re Application No. C-1889 of GCC License Corp.*, 647 N.W.2d 45 (Neb. 2002). That ETC is not drawing federal universal service support for its service in Nebraska.

A. Funding Will Be Needed for Deployment of Phase II E911

No PSAP in Nebraska has requested Phase II E911 from a wireless carrier. Presumably, as noted earlier, the most significant obstacle to doing so is financial – PSAPs must invest in technology so that they can receive and utilize the caller’s latitude and longitude information. Phase II E911 is a significant advance in public safety technology, and its availability will save lives. As noted above, Nextel Partners customers are buying handsets that will generate latitude and longitude, but that information cannot yet be received or utilized by emergency responders. Nextel Partners believes it is vitally important that funding be available to Nebraska PSAPs for Phase II E911-related costs so that Nebraska consumers can have the benefit of this public safety service.

B. Phase I E911 Costs Must Remain Fully Funded

Nextel Partners has devoted significant time and resources to implementing wireless Phase I E911 in Nebraska – a total of over \$300,000 since 2002. At present, Nextel Partners’ costs for providing Phase I E911 in specific counties in Nebraska include recurring monthly costs in excess of \$4500 per month, plus one-time costs in excess of \$30,000. These costs include costs for the rental of trunks from local exchange carriers (“LECs”) that convey ALI and ANI to PSAPs, the operation of a database used in providing ALI, and monthly support of other 911-related systems.

These Phase I-related costs will increase as more PSAPs implement Phase I E911 and request Phase I E911 service from Nextel Partners. Nextel Partners will continue to incur Phase I-related costs even after Nebraska PSAPs implement Phase II E911 service – the deployment of Phase II E911 does not mean that Phase I E911 will no longer be provided. In other words, these Phase I-related costs will continue to be incurred indefinitely. Thus, Nextel Partners strongly encourages the Commission to ensure continued availability of funding for

Phase I E911-related costs. Even though the Commission and Legislature will undoubtedly be concerned with ensuring funding for the eventual provision of Phase II E911, funding must remain in place for the continuing costs incurred for the provision of Phase I E911. Indeed, failure to ensure continued funding for Phase I costs, even as Phase II is deployed, would violate the Commission's determination that distributions of funds to wireless carriers and PSAPs must be fair and nondiscriminatory.¹⁹

IV. NEXTEL PARTNERS' EXPERIENCE WITH E911 REIMBURSEMENT SUGGESTS OPPORTUNITIES FOR IMPROVING NEBRASKA'S ADMINISTRATIVE PROCEDURES

A. Nextel Partners' Experience with E911 Reimbursement in Nebraska

As noted above, Nextel Partners has incurred, and continues to incur, significant costs for its provision of Phase I E911 in specific counties in Nebraska. Nextel Partners has sought reimbursement from the Fund for its Phase I E911-related costs, although it has encountered some administrative difficulties in the reimbursement process. Notwithstanding these difficulties, Nextel Partners has deployed, and continues to deploy, Phase I E911 service in Nebraska. Nextel Partners has done so because timely implementation of E911 service is required by federal law, and also because Nextel Partners, as a good corporate citizen of Nebraska, takes the public safety obligations connected with 911 service very seriously.

Nextel Partners understands that reimbursements must be subject to procedures to ensure that 911 funding is not misused. Nevertheless, the current procedures could be streamlined or improved. Reimbursement procedures must reflect the dynamic and rapidly changing nature of wireless service providers' coverage areas and technologies. Straightforward reimbursement procedures will encourage the expansion of E911 service by making it easier for PSAPs and carriers alike to implement E911-related technology.

¹⁹ *Guidelines Order*, Appendix A, Part I.

B. Nextel Partners' Experience with E911 Reimbursement in Other States

The E911 administrative processes established by other states may also provide ideas on how the reimbursement process could be streamlined.²⁰ Nextel Partners' E911 experience with the State commissions of Alabama, Indiana, Kentucky, and Virginia has been very successful. All four of these states have been leaders in the implementation of E911 service – deployment of Phase I and Phase II E911 in these states is far more widespread than in Nebraska. Each of these states has a 911 board somewhat similar to Nebraska's Advisory Board.²¹ However, in each of these states, the 911 board is not merely advisory like Nebraska's; instead, it directly decides 911 funding requests made by PSAPs and carriers. Some of these boards include representatives of PSAPs and wireless carriers with extensive technical expertise concerning the implementation of wireless E911.

Nextel Partners respects the Commission's experience with telecommunications matters and its hard work on 911 issues, but given the many other complex issues facing the Commission, it is possible that consolidating authority over the provision of wireless 911 with the Advisory Board could accelerate the deployment of E911 service throughout Nebraska.²² In particular, the reimbursement process might be streamlined if the Advisory Board had authorization to process reimbursement applications on its own. The addition of more members from the wireless carrier community, especially ones with technical expertise concerning wireless 911, to the Advisory Board might also increase efficiency.

²⁰ Indeed, the Commission specifically requested comment on "implementation of Phase I and Phase II enhanced wireless 911 in other states" in the *Opening Order*.

²¹ For more information about each of these four states' 911 boards, visit <http://www.alwireless911.org/default.htm> (Alabama); <http://www.911coverage.org/index1.htm> (Indiana); <http://cmrsboard.ky.gov/index.html> (Kentucky); and <http://www.911.virginia.gov/> (Virginia).

²² Nextel Partners does not support the consolidation of all oversight of wireless 911 and landline 911 into one body.

V. ANY INCREASE IN 911 SURCHARGES SHOULD BE JUSTIFIED AND IMPOSED EQUITABLY ON ALL CARRIERS' CONSUMERS

As noted above, increasing the amount of the wireless 911 surcharge is an obvious means of developing the additional funding that is anticipated to be needed for further deployment of Phase I and Phase II E911 in Nebraska. Nextel Partners does not necessarily oppose an increase in Nebraska's wireless 911 surcharge, but the intended use of the funds that come from the increased surcharge should be clearly disclosed.²³ Without an identification of what 911-related expenses the surcharge increase will be used to pay, wireless carriers and their subscribers (after all, the subscribers will be the ones most directly affected by any such increase) will be unable to determine whether such an increase is closely tailored to actual E911 implementation needs. This will also ensure that receipts track anticipated costs – Nextel Partners would not support an increase to the surcharge that produces a large surplus that would not be spent until years later.

In addition, any increase in 911 surcharges should be equitably imposed on all carriers' customers. Currently, wireless subscribers and LEC customers contribute to funding for the deployment of 911 through two separate mechanisms. The amount of the surcharge collected from LEC customers is determined by individual municipalities, whereas the Commission collects and administers a uniform amount from wireless carriers' subscribers on a state-wide level. This asymmetrical system may not be the most efficient or equitable means of funding 911-related costs. In other states, such as Minnesota, a uniform fee is imposed on wireless consumers and wireline consumers alike and is used for investment in both basic 911 and E911.²⁴

²³ The legislative information issued with LB 458 provided no information concerning how the resulting wireless 911 funds would be spent.

²⁴ See Minn. Stat. §§ 403.11, 403.113.

LB 458, which would have raised the wireless 911 surcharge from \$.50 to \$1.50 per subscriber, would have targeted wireless subscribers for the cost of implementing E911. The cost of implementing wireless E911 should not necessarily be borne only by those who subscribe to wireless service. Wireless E911 service is a public safety benefit to wireless subscribers and non-subscribers alike. Wireless subscribers often call 911 to alert first responders to a public safety emergency involving a person who is not a wireless subscriber. Furthermore, Nebraska law does not currently address the 911-related obligations of carriers that use Voice Over IP (“VOIP”) technology. The Commission and Legislature should ensure that 911-related costs are imposed equitably on consumers of all types of communications technologies.

VI. CONCLUSION

Nextel Partners supports the Commission’s goal in this docket of collecting information to permit the accelerated deployment of 911 and E911 throughout Nebraska. As the Commission considers how to increase funding for deployment of wireless Phase II E911, Nextel Partners encourages the Commission not to neglect the ongoing requirement to reimburse Phase I E911 costs. Nextel Partners suggests that there may be mechanisms for administering the Fund that would be more streamlined and efficient. Finally, although Nextel Partners does not necessarily oppose an increase in 911-related surcharges, the intended use of the increased funding must be clearly identified and the surcharges should be imposed equitably. Nextel Partners will participate in any workshop or public hearing the Commission might schedule to discuss the issues presented in this docket.

Respectfully submitted this 12th day of August, 2005.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 12th day of August, 2005, an original, five copies and an electronic copy of the Comments of NPCR, Inc., d/b/a Nextel Partners, in Application No. 911-014/PI-99 were hand delivered to:

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